

## Message Text

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20

ORIGIN IO-14

INFO OCT-01 AF-10 EA-11 ISO-00 DLOS-06 ARA-16 EUR-25

NEA-10 RSC-01 PCH-04 COA-02 CG-00 CIAE-00 DODE-00

PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04 PRS-01

SPC-03 SS-20 USIA-15 ACDA-19 AEC-11 AGR-20 EB-11

COME-00 DOTE-00 FMC-04 INT-08 JUSE-00 OMB-01 OIC-04

/254 R

DRAFTED BY IO/UNP:RTSCULLY:BKM

APPROVED BY IO:MFHERZ

D/LOS:SMCINTYRE

D/LOS:JNMOORE

NEA:RP:SSCHIFF

EA/RA:DLAMBERTSON

ARA/LA/PLC:RBLOOMFIELD

EUR:RSMITH

AF/RA:ANAVEZ

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R 212143Z DEC 73

FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS

AMEMBASSY NOUAKCHOTT BY POUCH

USLO PEKING BY POUCH

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E.O. 11652:N/A

TAGS: PBOR, UN

SUBJECT: LOS: SUMMARY OF LAW OF THE SEA CONFERENCE

ORGANIZATION SESSION

1. SUMMARY: TWO-WEEK ORGANIZATIONAL SESSION OF THE LOS  
CONFERENCE IN NEW YORK CONCLUDED DECEMBER 15, HAVING  
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ELECTED HIGHLY COMPETENT CONFERENCE PRESIDENT AND CHAIRMEN  
OF COMMITTEES, ADOPTED CONFERENCE AGENDA AND ESTABLISHED  
COMMITTEE STRUCTURE. AFTER DIFFICULT MANEUVERING US WAS  
ELECTED TO BOTH GENERAL (STEERING) AND DRAFTING COMMITTEES.

CONFERENCE, HOWEVER, WAS UNABLE TO REACH AGREEMENT IN THE LIMITED TIME AVAILABLE ON RULES OF PROCEDURE WHICH INVOLVE CRITICAL ISSUE WHETHER MAJORITY IS TO BE ALLOWED TO STEAM-ROLLER TEXTS OVER OPPOSITION OF SUBSTANTIAL MINORITY. INFORMAL EFFORTS TO PRODUCE CONSENSUS ON RULES WILL BE PURSUED PRIOR TO NEXT CONFERENCE SESSION IN CARACAS, WITH DEADLINE FOR ADOPTION OF RULES FIXED AT END OF FIRST WEEK OF THAT SESSION (JUNE 27). END SUMMARY.

2. ELECTION OF OFFICERS AND COMMITTEE COMPOSITION:

A. H.S. AMERASINGHE (SRI LANKA) WAS ELECTED AS CONFERENCE PRESIDENT BY ACCLAMATION. CONFERENCE ESTABLISHED THREE MAIN COMMITTEES (CHAIRD BY PAUL ENGO OF CAMEROON, ANDRES AGUILAR OF VENEZUELA AND ALEXANDER YANKOV OF BULGARIA); 48-MEMBER GENERAL COMMITTEE, 23-MEMBER DRAFTING

COMMITTEE (CHAIRD BY ALAN BEESLEY OF CANADA) AND NINE-MEMBER CREDENTIALS COMMITTEE. IT ALSO CREATED POST OF CONFERENCE RAPPORTEUR GENERAL, FILLED BY KENNETH RATTRAY OF JAMAICA. WE REGARD MAJOR CONFERENCE OFFICERS AS COMPETENT AND FAIR INDIVIDUALS.

B. MAJOR AND TIME CONSUMING DISPUTE AROSE OVER ALLOCATION OF SEATS ON GENERAL AND DRAFTING COMMITTEES. US SOUGHT SEATS ON BOTH IN KEEPING WITH ESTABLISHED PRACTICE IN PAST INT'L CONFERENCES AND IN UNGA. SATISFACTION OF US OBJECTIVES WAS COMPLICATED BY DISAGREEMENT OVER WHETHER US SHOULD BE TREATED AS MEMBER OF WESTERN EUROPEAN AND OTHER (WEO) GROUP AND BY SIGNIFICANT OPPOSITION TO AUTOMATIC INCLUSION OF PERMANENT SECURITY COUNCIL MEMBERS ON IMPORTANT CONFERENCE BODIES. AFRICAN, ASIAN, LATIN AMERICAN AND EASTERN EUROPEAN REGIONAL GROUPS ALL AGREED THAT US SHOULD BE COUNTED IN WEO QUOTA OF SEATS ON BOTH COMMITTEES CONCERNED, WITH UNDERSTANDING ON PART OF REGIONAL CHAIRMEN, AND SHARED BY SOME MEMBERS OF THEIR RESPECTIVE GROUPS, THAT US SHOULD BE REPRESENTED ON BOTH.

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WEOS, ON OTHER HAND, ARGUED THAT US HAD NOT GENERALLY BEEN TREATED AS MEMBER OF THEIR GROUP AND PROVIDING SEATS FOR US WOULD PLACE GROUP AT LESS THAN PARITY WITH OTHERS. SITUATION FURTHER COMPLICATED BY INITIAL UK AND FRENCH DESIRE FOR SEATS ON BOTH COMMITTEES AS PERMANENT MEMBERS OF SECURITY COUNCIL.

C. IN THIS ALREADY COMPLICATED SITUATION PRC MADE FORMAL PROPOSAL THAT NO STATE PARTICIPATING IN THE CONFERENCE SHOULD HAVE THE RIGHT OF "DUAL REPRESENTATION" -- SEATS ON BOTH GENERAL AND DRAFTING COMMITTEES. COMPROMISE SOLUTION ON ALLOCATION OF SEATS FINALLY WORKED OUT ON

BASIS ORIGINALLY PROPOSED BY CANADIAN REP. US CANDIDACY FOR VICE PRESIDENCY WAS PUT TO VOTE ALONG WITH OTHER WEO CANDIDACIES, WITH US SECURING ELECTION HANDILY. AS RESULT WE BECAME MEMBERS OF GENERAL COMMITTEE ALSO, AS DID USSR. TO MAKE THIS POSSIBLE, AMERASINGHE ADROITLY SHELVED CHINESE PROPOSAL WITHOUT PREJUDICE TO POSITION OF PARTICIPANTS THROUGH FOLLOWING FORMULA TO WHICH HE SECURED NO-OBJECTION AGREEMENT- "NO STATE SHALL BEGIN UNDERLINE AS OF RIGHT END UNDERLINE BE REPRESENTED ON MORE THAN ONE MAIN ORGAN OF THE CONF."

3. RULES OF PROCEDURE:

A. DEADLOCK DEVELOPED OVER RULES OF PROCEDURE, WHICH DESPITE INTENSIVE INFORMAL CONSULTATIONS PURSUED UP TO LAST MINUTE COULD NOT BE RESOLVED. DRAFT RULES HAD BEEN PREPARED BY UN SECRETARIAT, DRAWING UPON RULES EMPLOYED AT PREVIOUS INT'L CODIFICATION CONFERENCES. RULES INCLUDED SEVERAL INNOVATIONS DESIGNED TO RESTRAIN ABUSE OF POWER OF MAJORITY INCLUDING PROVISIONS TO PREVENT PREMATURE VOTING. "GENTLEMAN'S AGREEMENT" WHICH HAD BEEN APPROVED BY UNGA CONCURRENTLY WITH LOS CONFERENCE RESOLUTION, WAS ALSO APPENDED TO DRAFT RULES. THAT AGREEMENT PROVIDED THAT THERE SHALL BE NO CONFERENCE VOTING ON SUBSTANTIVE MATTERS UNTIL ALL EFFORTS AT CONSENSUS HAVE BEEN EXHAUSTED. ALTHOUGH GENTLEMAN'S AGREEMENT REMAINS IN FORCE, UNHELPFUL EFFORTS WERE MADE AT DECEMBER SESSION TO LIMIT ITS APPLICATION.

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B. SOME MEMBERS OF GROUP OF 77, LED BY CHILE, COLOMBIA AND TANZANIA SOUGHT TO DELETE FROM DRAFT RULES MANY, THOUGH NOT ALL, OF THE DEVICES DESIGNED TO PREVENT ABUSE OF POWER BY MAJORITY. USSR, AT OTHER EXTREME, PRESSED FOR CONFERENCE DECISIONS AS A RULE BY CONSENSUS WITH REQUIREMENT OF CONCURRENCE BY ALL REGIONAL GROUPS.

C. DISAGREEMENT ALSO AROSE OVER HOW TO TREAT GENTLEMAN'S AGREEMENT. TANZANIA AS SPOKESMAN FOR MANY LDC'S ARGUED THAT ADOPTION OF RULES WOULD EXECUTE THAT AGREEMENT AND TERMINATE ITS EXISTENCE. US, AMONG OTHERS, MAINTAINED THAT GENTLEMAN'S AGREEMENT WAS CLEARLY INTENDED TO BE APPLICABLE THROUGHOUT CONFERENCE. FINALLY DISPUTE AROSE OVER HOW TO ADOPT RULES. MOST DELEGATIONS, SUPPORTED BY CONFERENCE SYG (STAVROPOULOS) FAVORED THEIR ADOPTION BY SIMPLE MAJORITY. US, UK, USSR, FRANCE AND JAPAN TOOK EXCEPTION TO THIS VIEW, POINTING TO IMPORTANCE OF RULES TO EVENTUAL SUCCESS OF CONFERENCE.

D. TIME RAN OUT, HOWEVER, ON EFFORTS TO REACH COMPROMISE ON RULES WITHIN LAST THREE DAYS OF CONFERENCE,

SINCE COMMITTEE QUESTIONS WERE NOT SETTLED UNTIL DEC. 12. CONFERENCE PRESIDENT CLOSED THE SESSION, ANNOUNCING HE WOULD CONDUCT INFORMAL CONSULTATIONS WITH ANY INTERESTED REPS FEBRUARY 25 - MARCH 1. AMERASINGHE PROPOSED THERE BE FINAL DEADLINE OF JUNE 27 FOR ADOPTION OF RULES (AT END OF FIRST WEEK OF CARACAS SESSION), HOPEFULLY BY CONSENSUS BUT BY VOTING IF CONSULTATIONS FAIL TO BREAK DEADLOCK. CONFERENCE APPROVED AMERASINGHE SUGGESTION ALONG WITH ARGENTINE PROPOSAL THAT IF VOTING BECOMES NECESSARY, UNGA RULES OF PROCEDURE APPLY PROVISIONALLY PENDING ADOPTION OF LOS CONFERENCE RULES. (UNGA RULES WOULD SPECIFY SIMPLE MAJORITY ON ADOPTION OF RULES, UNLESS CONFERENCE DECIDED -- EQUALLY BY SIMPLE MAJORITY -- TO DESIGNATE IT AN IMPORTANT QUESTION.)

4. ASSESSMENT:

A. FROM POINT OF VIEW OF US STATUS IN UN AND OTHER INTERNATIONAL CONFERENCES, EXPERIENCE OF LOS ORGANIZATIONAL LIMITED OFFICIAL USE  
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SESSION INDICATES THAT IT BECOMING INCREASINGLY DIFFICULT FOR US TO MAINTAIN SPECIAL STATUS AS ONE OF PERMANENT SC MEMBERS. CHINESE, AS INDICATED ABOVE, DID NOT WANT SUCH STATUS FOR THEMSELVES OR FOR OTHER PERMANENT MEMBERS. SOVIETS INSISTED ON SPECIAL STATUS (BUT HAD NO DIFFICULTY OBTAINING IT SINCE EASTERN EUROPEAN GROUP AUTOMATICALLY "ELECTS" THEM TO REPRESENT GROUP IN MAJOR BODIES). FRENCH TOOK STANCE THAT EITHER ALL BIG POWERS OR NONE SHOULD HAVE SPECIAL STATUS, ALTHOUGH IN THE END THEY BACKED AWAY FROM THAT POSITION. UK COULD LIVE WITH SPECIAL STATUS FOR US AND USSR, BUT NOT FOR FRANCE (IF UK NOT TREATED EQUALLY). IN THE END, UNDERSTANDING OF CONFERENCE PRESIDENT OF POLITICAL REQUIREMENTS FOR SUCCESSFUL TREATY FACILITATED SENSIBLE OUTCOME.

B. ON OTHER HAND, FROM US POINT OF VIEW FAILURE TO ACHIEVE CONSENSUS ON RULES WAS DISAPPOINTING. HOWEVER, PROLONGATION OF EFFORTS AT CONSENSUS BY AMERASINGHE SEEMS PREFERABLE TO WHAT WOULD HAVE BEEN AT BEST A CONFUSED AND CONTENTIOUS VOTE ON RULES IN FINAL HOURS OF THE SESSION. SUCH VOTE COULD NOT HAVE REFLECTED ADEQUATE CONSULTATION OR NEGOTIATION ON ISSUES INVOLVED IN CONFERENCE RULES, SINCE FIRST 10 DAYS HAD TO BE DEVOTED TO ELECTIONS AND COMMITTEE COMPOSITION. RUSH

NOTE BY OCT: POUCHED.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 10 MAY 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW OF THE SEA, COMMITTEE MEETINGS, MEETING PROCEEDINGS, RULES COMMITTEE  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 21 DEC 1973  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** worrelsw  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Executive Order:** N/A  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** worrelsw  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 10 JAN 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <10-Jan-2002 by smithrj>; APPROVED <07 MAR 2002 by worrelsw>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LOS: SUMMARY OF LAW OF THE SEA CONFERENCE ORGANIZATION SESSION  
**TAGS:** PBOR, XX, UN  
**To:** ALL DIPLOMATIC POSTS  
NOUAKCHOTT BY POUCH  
PEKING BY POUCH  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005